

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
**IN AND FOR THE COUNTY OF YUMA**  
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<b>In the Matter of:</b>	)	
	)	<b>Administrative Order</b>
<b>KEEPING THE RECORD AND THE USE</b>	)	
<b>OF DIGITAL RECORDING EQUIPMENT</b>	)	<b>2009- 07</b>
<b>AND THE OFFICIAL RECORD</b>	)	
_____	)	

The availability of certified court reporters has diminished over the years. This has caused a shortage of qualified court reporters in the Courts to fill the need for official record keepers in various court proceedings. A.R.S. § 38-424 authorizes the Court to use recording devices to supplant the use of court reporters to record the proceedings unless a party expressly requests a court reporter. The Court currently utilizes two digital recording technologies, FTR Gold and JAVS. FTR Gold is used by the Clerk of the Superior Court to assist its clerks in preparation of minute entries and is not considered public record, pursuant to Supreme Court Rule 123. FTR Gold is currently not considered the official record of the Court unless otherwise specified as such under Administrative Order 2004-07.

This Administrative Order amends and supersedes Administrative Order No. 2004-07, filed April 22, 2004, where any discrepancy or ambiguity exists between the two. Such amendment and/or prevailing order should promote the intended purpose of Order No. 2004-07 which was to govern the use of FTR Gold, or other digital recording equipment, by the Clerk of the Superior Court in the efficient and accurate production of minute entries.

**IT IS THEREFORE ORDERED** that the policies and procedures governing the use and maintenance of digital recording in Yuma County Superior Court and Justice Court, Precinct One, are established as follows:

**I. DESIGNATION OF THE OFFICIAL RECORD**

**A. Proceedings Requiring A Court Reporter**

All of the following proceedings shall be recorded by a certified court reporter and shall not be recorded solely by electronic means, unless this requirement is waived by the parties and the Court approves the waiver:

1. Grand jury proceedings;
2. All proceedings in a first degree murder case, pursuant to A.R.S. § 13-1105, after the intention to seek the death penalty notice has been filed;
3. Felony jury trials;
4. Initial determinations of sexually violent person status, pursuant to A.R.S. § 36-3706;
5. Proceedings on a request for authorization of abortion without parental consent, pursuant to A.R.S. § 36-2152;
6. Preliminary Hearings.

**B. Timely Request for a Court Reporter**

Any party to any action in superior court may request that any proceeding in that action be recorded by a certified court reporter. The Court shall grant the request if it is made at least three (3) days prior to the proceeding to be recorded unless a different time frame has been established by local rule.

**C. Absent a Timely Request**

In the absence of a timely request for a certified court reporter the record shall be made in a manner within the sound discretion of the Court. The Court may approve use of a certified court reporter or audio or video recording. In exercising its discretion, giving due deference to the parties' preference, the Court may consider the following factors:

1. Availability of a certified reporter;
2. The probability that a transcript will be requested;
3. The number of litigants;
4. Convenience of the parties;
5. The court's schedule;
6. Sufficiency of another form of record to convey the substance of the matters discussed at the proceedings;
7. Whether testimonial evidence will be presented at the proceeding;
8. Presence of non-native English speakers as witnesses or parties;
9. The likelihood that technical or otherwise difficult terminology will be used;
10. The need for formal or informal proceedings;
11. The need for a real-time transcript;
12. The likelihood that daily transcripts will be required; and
13. Any other factor which in the interests of justice warrants a particular form of record, or as otherwise required to serve the interests of justice.

#### D. Priority of Requests in Discretionary Proceedings

There is a presumption that the following proceedings shall be recorded by a certified court reporter and not solely by electronic means:

1. Juvenile dependencies;
2. Civil trials;
3. Child custody cases;
4. Domestic trials;
5. Juvenile delinquency matters;
6. Civil and Domestic motions.

This requirement may be waived by the parties or the Court. Any waiver by parties must be approved by the Court.

#### E. Court Reporter Records as Official Record

When an Arizona-certified court reporter records a proceeding in superior court that is simultaneously recorded by electronic recording equipment, the court reporter's record shall be the official record. Any transcript prepared by a certified court reporter or other authorized transcriber shall be deemed a correct statement of the testimony taken and proceedings held. No transcripts of the proceedings of the Court shall be considered as an official record except those records prepared by a certified court reporter or other authorized transcriber.

### **II. CREATION OF THE JAVS OFFICIAL RECORD**

#### A. Judicial Staff

The bailiff and judicial assistant of each division are responsible for operating the JAVS system as well as documenting the proceedings that are designated by the Court as JAVS official record ("JAVS Official".)

##### 1. Training

All bailiffs and judicial assistants are required to be JAVS certified pursuant to completion of a JAVS training session with Court IT staff. Bailiffs and judicial assistants who are currently employed by the Court are required to obtain JAVS certification within thirty (30) days from the date of this Order. Bailiffs and judicial assistants who are hired after the effective date of this Order are required to be certified prior to beginning bailiff duties in any division.

##### 2. Daily Responsibilities

Bailiffs in each division are required to maintain an index of all the proceedings in which JAVS is designated as the official record. The following information shall appear in the index: case number, party names, date and time of the proceeding, type of proceeding, as well as the start and stop times of the recording.

##### 3. Weekly Responsibilities

All bailiffs are required to forward a copy of the week's JAVS Official index to the Managing Court Reporter by the close of business the following Monday. At least once a

week, bailiffs shall ensure the proper functioning of JAVS equipment, including microphones.

B. Court Clerk

Deputy Clerks of Court shall assist in the tracking of proceedings where JAVS is designated the official record. The Superior Court and Justice Court Clerk's offices shall assist with the maintenance and permanent storage of the recordings.

Upon direction from the judge presiding over a hearing, Deputy Clerks shall document FTR Gold or JAVS as the official record when appropriate ensuring notation of all of the following:

- a. Proceedings that are designated "FTR Gold or JAVS Official;"
- b. Recording start and stop times;
- c. The division and judge who heard the proceeding; and
- d. Physical location of the hearing.

C. Court IT

Court IT shall assist the Court to gather data indicating the proceedings that were designated as JAVS Official which shall serve as a system check of the information provided by the bailiffs to the Managing Court Reporter. Court IT shall continue to assist the Court in any manner necessary, including the following:

1. Training

Court IT shall train and certify all bailiffs and judicial assistants in the operation and use of JAVS

2. Monthly

Court IT shall generate reports to assist in the permanent storage of JAVS Official recordings and for the timely purging of the system.

3. Permanent Storage

Court IT shall transfer all of the JAVS official recordings onto permanent storage devices each month.

4. Purging Records

Court IT shall complete a purge of the system, including the DBRs in order to delete all JAVS recordings that are one hundred and eighty (180) days old or older. The purge shall take place on a monthly basis. Further, due care shall be used when permanently deleting recordings to ensure that no record less than 180 days old is deleted. Court IT shall obtain written confirmation from the Managing Court Reporter that all the necessary JAVS Official recordings have been permanently stored on optical recording devices prior to any purge of the system.

#### 5. Ongoing Maintenance

Court IT shall be responsible for the ongoing maintenance of the JAVS system including the DBRs to ensure its proper function. A review of the readability of all digital recordings shall be done on an annual basis. The monthly storage device and/or storage media shall be periodically refreshed in order to ensure accessibility for as long as the applicable record retention schedules require. This may require recopying recordings to new media.

#### 6. Recording

Court IT shall create and maintain a catalog of all JAVS Official proceedings that are recorded onto a particular storage device and/or storage media, cross-referencing the storage device and/or storage media to the proceeding. The items to be included in the catalog are: case number, hearing date, caption, type of hearing, JAVS file name and storage device and/or storage media number.

After the Managing Court Reporter confirms the accuracy of the information contained in the minute entry report and the index prepared by the bailiffs, Court IT shall transfer all of the identified proceedings onto two (2) different permanent storage devices and/or storage media.

The JAVS recording with the highest number of separate audio tracks shall be used to transfer the JAVS recordings onto storage devices and/or storage media to provide a certified court reporter the ability to single out a track during playback.

After completion of the transfer, Court IT shall send written notice to the Managing Court Reporter to confirm that the transfer of JAVS Official recordings to storage devices and/or storage media has been completed. Court IT shall then purge these recordings from the JAVS-attached storage devices.

#### 7. JAVS Official Proceedings Prior to this Order

Court IT shall generate a list of all JAVS recordings for each courtroom including Justice Court, Precinct One, from the time of inception of the use of JAVS by Yuma County Superior Courts and Justice Court, Precinct One, until the time of this Order (August, 2005 through May, 2009).

- a. A minimum of two copies of JAVS recordings within this time frame shall be retained on storage devices maintained by Court IT for the Court Administrator, Managing Court Reporter and Yuma Justice Courts as appropriate.
- b. As existing storage devices approach capacity, Court IT, with the assistance of the Managing Court Reporter, shall move all recordings to another storage device, thereby restoring storage capacity to the JAVS system.

#### D. Managing Court Reporter

The Managing Court Reporter shall assist Court IT with the transfer of the “JAVS Official”

recordings onto storage devices for permanent storage.

1. Weekly

The Managing Court Reporter shall obtain and keep the weekly index provided by the bailiffs for each month, per division. This index is referred to as the JAVS catalog.

2. System Check

The Managing Court Reporter shall obtain and compare the minute entry report of all JAVS Official proceedings that is generated by Court IT with the weekly index provided by the bailiffs. This shall serve to ensure all JAVS Official recordings are identified and transferred onto permanent storage devices.

### **III. TRANSCRIPTS AND COPIES OF JAVS**

#### **A. Requests For Transcripts**

Any request for a copy of a proceeding where JAVS was designated the official record shall be fulfilled via transcription of the record by a court appointed or certified court reporter. Copies of the actual JAVS recording shall not constitute the official record and, therefore, shall not be provided to parties, their attorneys, or the public.

1. Requests must be made in writing to the Managing Court Reporter. Requests shall include the following information: case number, name of the parties, date and time of the proceeding, what is needed (full or partial transcript of the proceeding) with some particularity, name of the judge, division number, and the requested time frame for production of the transcript.

2. The Managing Court Reporter is responsible for timely preparation of JAVS transcripts and for collecting any fees associated with the transcription.

3. Parties requesting copies of the record are required to pay the fees as outlined by the Managing Court Reporter.

#### **B. Requests for DVDs**

1. Request forms to request a DVD of Protective Orders in which JAVS is the official record, are available from the managing Court Reporter and from the Justice Center Receptionist. Requests can be submitted to the Managing Court Reporter via telephone, fax or e mail.

2. The forms for copies of JAVS recordings on storage media (DVD) shall advise requesting parties to pay to Superior Court at the Office of the Clerk of the Court a fee of Twenty Dollars (\$20.00) to defray the cost of producing the DVD.

3. The Managing Court Reporter shall produce a copy of the JAVS record for the requesting party after confirming that the requesting party has paid the \$20 fee.

**DATED** this 11<sup>th</sup> day of June, 2009.

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Hon. Andrew W. Gould  
Presiding Judge